GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Servants – Agriculture & Cooperation Department – Allegations of Corruption against Sri Sangamareddi Krishna Murthy, Joint Registrar/ District Cooperative Officer, Eluru, West Godavari District - Trapped on 02.08.2014 by the ACB Officials – Initiation of Departmental action instead of prosecution – Prosecution accorded – Withdrawal of prosecution - Orders – Issued.

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AGRICULTURE & COOPERATION (VIG-II) DEPARTMENT

G.O.MS.No. 54 Dated: 14-04-2020

Read the following:-

1. From the DG, ACB, Hyd., Lr.No.188/RCT-EWG/2014, dt:16.12.2015.
2. Govt. Memo.No.6719/VIG.II(2)/2014, dated:20.09.2016.
3. From the D.G., ACB, Vijayawada, Lr.No.188/RCT-EWG/2014, dt:09.11.2016.
4. G.O.Ms.No.9, Agriculture & Cooperation (VIG.II) Department, dated:01.02.2017.
5. Govt. Memo.No.6719/VIG.II(2)/2014, dated:01.02.2017.
6. W.P.M.P.No.5661/2017 in W.P.No.4668/2017 filed by the A.O. Sri Sangamareddy Krishna Murthy, Joint Registrar and District Cooperative Officer, Eluru, W.G. District.
7. From the D.G., ACB, Vijayawada, Lr.No.188/RCT-EWG/2014, dt:16.02.2017.
8. Representation of Sri S.Krishna Murthy, Joint Registrar, 19.06.2019.

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ORDER:

Whereas, in the reference 1st read above, the Director General, Anti Corruption Bureau, A.P., Hyderabad has submitted his final report to the Government duly requesting for accord permission to prosecute the Accused Officer Sri Sangamareddi Krishna Murthy, Joint Registrar / District Cooperative Officer, Eluru, West Godavari District in the Court of Law under Section 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988 for this corrupt activities who was trapped by Anti Corruption Bureau Officials on 02.08.2014, when he demanded and accepted a bribe from the complainant for doing official favour.

2. And whereas, in the reference 2nd read above, Government have examined the proposal of the Director General, Anti Corruption Bureau in detail and observed that:-

1) As per the Mediator Report-II the statement of the Superintendent is as follows:-

"The Divisional Cooperative Officer has submitted his enquiry report on 8.7.2014 before the District Cooperative Officer (AO). In turn the DCO has forwarded the said report to the concerned section after putting his signature dated 08.07.2014, but he has not made any remarks on the file to follow further action. So far the said file was not forwarded to him from the concerned Section Asst.".

From the above statement, it is observed that the Enquiry Report is not pending with the AO. AO has sent the report to the lower staff.

P.T.O.

Neither has he given any instructions to the lower staff to put up nor to hold it. It is the responsibility of the lower staff to move the file for suitable orders on the Enquiry Report. Thereby, it establishes that no issue relating to the complainant is pending with the AO on the count of official favour.

As per the mediator reports, it is established that the alleged amount has not been recovered in his actual physical position and the same has been recovered from the chair. The Judgment of the Hon'ble Supreme Court in 2000 Cr.L.J.2273 (SC) is as follows":-

"mere recovery of the bribe amount from the accused, which was lying on the pad on the table of the accused by itself, cannot be held to be proper of sufficient proof of the acceptance of the bribe by the accused".

The version of the AO on allowing the complainant in his home and giving shake-hand with both the hands resulting in positive result in chemical test seems convincing.

The AO has conducted the surprise check on the Society for which the complainant is the Chief Executive Officer. During the surprise check, the AO found some irregularities and ordered for enquiry duly exercising his statutory duties. Thus, there is no motive in ordering the enquiry. Consequently the complainant has tried to approach the AO, who is turn denied. Keeping in view of enquiry ordered by the AO and denial to access, the complainant might have developed grudge against the AO with fear.

The above points establish that the case against the AO is not fully convincing.

In view of the above facts, it is also observed that, there is preponderance of evidence to show that the case may not stand judicial scrutiny. Therefore, it is decided to initiate Departmental proceedings against the AO on the allegation of corruption as per provisions under Rule 20 of A.P. Civil Services (CC&A) Rules, 1991 instead of prosecution.

2. Government have decided to frame charges against A.O. Sri Sangamareddi Krishna Murthy, Joint Registrar/District Cooperative Officer, Eluru, West Godavari District and conduct enquiry departmentally as per provisions of 20 of A.P. Civil Services (CC&A) Rules, 1991. The Director General, ACB is requested to send draft articles of charges, statement of imputations etc., in the prescribed proforma against Sri Sangamareddi Krishna Murthy, Joint Registrar/ District Cooperative Officer, Eluru along with relevant documents to Government for taking necessary action in the matter.

3. And whereas, in the reference 3rd read above, the Director General, Anti Corruption Bureau has requested the Government to reconsider the facts basing on the sufficient oral and documentary evidence which primafacie constitute on offence under the P.C. Act., 1988 and issued order of sanction for prosecution of A.O. in a Court of Law for the aforesaid offence at an early date.

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4. And whereas, the Government in the reference 4th read above, accorded permission/ sanction to prosecute the Accused Officer Sri S.Krishna Murthy, Joint Registrar/ District Cooperative Officer, Eluru, West Godavari District in a court of law. Accordingly, in the reference 5th read above, Government issued orders cancelling orders issued in the reference 2nd read above.

5. And whereas, in the reference 7th read above, the Director General, Anti Corruption Bureau has informed that Charge Sheet has been filed against the Accused Officer Sri S.Krishna Murthy, Joint Registrar/ District Cooperative Officer, Eluru, West Godavari District in the Court of Special Judge for SPE & ACB Cases, Vijayawada on 09.02.2017.

6. And whereas, Sri S.Krishna Murthy, Joint Registrar / District Cooperative Officer, Eluru, West Godavari District has filed W.P.M.P.No.5661/2017 in W.P.No.4668/2017 before Hon'ble High Court of Andhra Pradesh and Telangana at Hyderabad challenging the prosecution orders issued in 4th read above in which the Hon'ble High Court granted interim stay.

7. And whereas, in the reference 8th read above, Sri S.Krishna Murthy, Joint Registrar/ the then District Cooperative Officer, Eluru, West Godavari District has made a representation before the Government, stating among other things that:-

(i) The entire case is foisted against him by the disgruntled person Sri V.V.Krishnaiah, CEO of Large Size Cooperative Society, who felt humiliated and hurt by him surprise check of Society and pointing out discrepancies. He was apparently instigated by the some of the CEOs of other Cooperative Societies who are inimically disposed towards me.

(ii) The ACB did not follow the principles enunciated in the ACB Manual as they did not make any verification of the antecedents, intentions, and motives of the complainant, and my good reputation in the Department as an honest officer.

(iii) The action of the DSP ACB in instructing the Complainant who approached him on 01-08-2014 with a complaint against me, to come up with the bribe amount of Rs.20,000/- the very next day, without bothering to verify the bonafides and motive of the complainant, and my reputation, shows the callous and insensitive attitude of the ACB in a sensitive trap case. This hasty action violates all principles enunciated in the ACB Manual as well as the principles of natural justice.

(iv) There was no 'accompanying witness/ shadow witness' to witness the handing over of the bribe money. Everything the complainant stated was taken on record blindly.

(v) The ACB did not contemplate on the common sense point that no official favour was pending to be discharged by me to the complainant.

(vi) The complainant stated two different versions i.e., before the ACB officials he told that I counted the tainted money with my both hands and in the 164 Cr.PC statement before the Hon'ble Court, he did not mention about counting of tainted money by me. This distortion needs to be taken into account to accept my statement that the change of colour of the solution to pink was because the complainant shook hands with me twice deliberately smearing the chemical powder on my hands so that the chemical test yields positive result.

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(vii) A hasty action on the part of the DSP, ACB ruined my life, my reputation and the peace of my entire family. During my entire service, I never faced any adverse remark or comment from my superiors, my colleagues and the general public with whom I had to deal with in my official capacity. The very fact that no incriminating material or documents were recovered in my residence or office after the 'trap' proves my integrity and honesty.

(viii) The Sanctioning Authority, while deciding to refuse sanction vide memo dated 20.09.2016, considered the report of the A.P. Vigilance Commission dated 24-06-2016 and opined that the case against me would not stand for legal scrutiny and hence ordered for initiation of departmental action instead of sanction of prosecution. When once the Sanctioning Authority takes a decision, based on the material, refusing to accord sanction for prosecution, it cannot pass another order (G.O.Ms.No.9 A&C (Vig.II) dated 01-02-2017) according sanction which would indicate that the sanctioning authority has not seriously applied its mind in the matter. It is well settled law that the grant of sanction is a sacrosanct activity and no one has got role to play while according or refusing sanction.

ix) The remarks of the Trial Court made in order dated 20.08.2016 that the complainant shall serve the copy of the order to sanctioning authority and that authority shall submit its remarks to the Trial Court to examine and submit to the Hon'ble Supreme Court, have been expunged by the Hon’ble High Court in CRLP.No.1740912016 dated:19.01.2017. The Trial Court practically threatened the Government by citing inapplicable decisions of the Supreme Court to grant sanction and also lowered the dignity of the Hon'ble High Court. The sanctioning authority succumbed to the pressure of the trial court.

(x) The impugned orders issued in G.O.Ms.No.9, A&C (VIg.II) Dept., dated:01.02.2017 according sanction to prosecute me is therefore illegal, improper, without application of mind and is violative of principles of natural justice. The Hon’ble High Court has suspended the prosecution order vide the G.O.Ms.No.9, in its order dated:10.02.2017 passed in W.P.No.4668 of 2017.

8. Sri S.Krishna Murthy, Joint Registrar/ the then District Cooperative Officer, Eluru, West Godavari District has requested the Government to consider the facts narrated in the representation and to drop further action by cancelling the prosecution orders in the matter.

9. Now, therefore Government have against re-examined the case with reference to the material available on records and taking into consideration of the representation of individual in the reference 8th read above and after careful consideration, hereby withdraw the prosecution orders issued against Sri S.Krishna Murthy, Joint Registrar / the then District Cooperative Officer, Eluru, West Godavari District in the reference 4th read above and reiterated the earlier decision i.e., to initiate departmental action issued in the 2nd read above.

10. The Director General, Anti Corruption Bureau is therefore requested to implement the earlier Government orders issued vide reference 2nd read above and to direct the concerned Public Prosecutor to withdraw the prosecution filed against Sri S.Krishna Murthy, Joint Registrar/ the then

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District Cooperative Officer, West Godavari District and furnish the draft Article of Charges, statement of imputations etc., in the prescribed proforma against the Accused Officer along with relevant documents to Government for taking further action in the matter.

11. The Director General, Anti Corruption Bureau, Vijayawada is therefore requested to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Y MADHUSUDHANA REDDY,
SPECIAL SECRETARY TO GOVERNMET

To
The Director General, Anti Corruption Bureau, Vijayawada.
Copy to:-
The Secretary, A.P.V.C.(C.No.779/VC.AE2/2014).
Sf/Sc.

// FORWARDED :: BYORDER//

SECTION OFFICER